

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

ORIGINAL APPLICATION NO. 1702/95

(5)

Monday, this the 30th day of August, 1999.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri J.L.Negi, Member(A).

B.K.Kardam,
R/o. H.No. D-193, Gokul Puri,
New Delhi - 110 094.

... Applicant.

Vs.

1. Government of N.C.T. of Delhi
through :

The Chief Secretary,
Govt. of N.C.T. Delhi,
5, Shamnath Marg,
Delhi - 110 054.

2. The Secretary,
Services,
Govt. of N.C.T. of Delhi,
5, Shamnath Marg,
Delhi - 110 054.

3. The Principal,
Delhi College of Engineering,
Kashmiri Gate,
Delhi - 110 006.

... Respondents.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

The case was called out for final hearing. None
appeared for the parties. This is an old case of 1995.
We have ourselves perused the pleadings and documents on
record to find out whether any relief can be given to the
applicant.

2. The applicant was appointed on compassionate
grounds as a Class - IV official due to the death of his
father while in service. Though the administration rejected
the request of the applicant two to three times, subsequently
they granted compassionate appointment and appointed the
applicant as a Peon in the Delhi College of Engineering.

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per

(b)

The applicant accepted the post in 1992 and he is still working there. The applicant's grievance is that, having regard to his qualification he is entitled to be appointed as a Lower Division Clerk. He made number of representations which came to be rejected and hence he has filed the present application. He wants a direction to the respondents to appoint him to the post of an L.D.C.

3. The respondents in their reply have stated that ^{appointment} once the applicant has accepted the compassionate ^{as a Peon}, he cannot now turn around and say that he should be appointed as an L.D.C.

4. The respondents have relied upon the decision of the Supreme Court reported in JT 1994 (3) SC 525 (Anil Malik Vs. State of Haryana & Ors.), where the Supreme Court has observed that the qualifications of the defendant is not relevant. If the defendant of the deceased employee finds it below his dignity to accept the post offered, he is free not to do so. The post is not offered to cater to his status but to see the family through the economic calamity.

In this case, the applicant need not have accepted the offered compassionate appointment as a Peon at that time. The applicant could have made further request for appointment as an LDC. The applicant having accepted the ^{having} post and/ worked for three years has filed this application in 1995 claiming that he should be appointed as an LDC. It is well settled that compassionate appointment is not a matter of legal right, it is only a concession given by the Government in deserving cases to offer appointment to the

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heirs of an employee who dies in harness. Though the applicant's request was rejected two to three times, still the administration thought it fit to give a compassionate appointment to the applicant and he accepted it and he is working there and now he cannot turn around and say that he should have been appointed only as an LDC. The applicant has no such legal right to claim that he should be appointed as an LDC. Therefore, we do not find any merit in this case.

5. In the result, the application fails and is dismissed. No order as to costs.

JL Negi
(J.L.NEGI)
MEMBER (A)

R.G. Vaidyanatha
(R.G.VAIDYANATHA)
VICE-CHAIRMAN

B.